UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DIETEC CO., LTD,

Plaintiff,

Case No.

Hon.

vs.

OSIRIUS GROUP, LLC,

Defendant.
____/

COMPLAINT AND JURY DEMAND

Plaintiff, Dietec Co., Ltd ("Plaintiff" or "Dietec"), by its attorneys, Mantese Honigman P.C., for its Complaint against Defendant, Osirius Group, LLC ("Defendant" or "Osirius"), states as follows:

NATURE OF THE ACTION

1. This complaint arises out of Osirius's failure and refusal to fulfill its contractual obligations to pay Dietec for Dietec's manufacture and delivery of an automotive stamping tool and sample panels (the "Equipment"), according the payment schedule set forth in the parties' agreement. The Equipment was to be used by Osirius and Renault do Brasil, S.A. ("Renault"), a subsidiary of the French automobile

manufacturer, Groupe Renault, in a project to develop and manufacture a new Sports Utility Vehicle, referred to by the codename, Renault HHA Brasil Project (the "Project").

2. Dietec has fulfilled all its obligations under the parties' agreement, including the design, manufacture, packing, shipping, and installation of the Equipment to the satisfaction of Osirius and Renault. Osirius has no basis for withholding payment, and therefore, its conduct constitutes a material breach of the parties' agreement.

3. Finally, Osirius used its position with Renault to misrepresent that Dietec was responsible for the delays in the deliveries of the Equipment. Osirius further intentionally and maliciously used its position with Renault to coerce Dietec into completing its production of the Equipment when it had no intention of fulfilling its contractual obligations. Dietec filed the instant case to recover the damages caused by Osirius's unlawful conduct.

PARTIES AND JURISDICTION

4. Dietec is a foreign corporation organized under the laws of South Korea with its principle place of business located in the City of Yangsan, South Gyeongsang Province, South Korea.

5. Osirius is a limited liability company organized under the laws of Delaware with its principle place of business located in Troy, Michigan.

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between the litigants and the amount in controversy exceeds $75,000.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1), (2), & (3), as Osirius has its principle place of business in this district, a substantial portion of Osirius's conduct giving rise to this action took place in this district, and this Court has personal jurisdiction over Osirius.

GENERAL ALLEGATIONS

8. Dietec is located in Yangsan, South Korea and is a world leader in the manufacture of precision automotive press dies. Dietec's products are used by automotive companies throughout the world, including Group Renault and Nissan Motor Company Ltd ("Nissan").

9. Osirius is an automotive production consultant located in Troy, Michigan. Relevant to this case, Renault hired Osirius to assist in the development of a new SUV, codenamed Renault HHA, i.e. the Project.

10. As part of the Project, on or about October 6, 2014, Osirius and Dietec entered into three Purchase Orders, Nos. OSI-RN00072, OSI-RN00070, OSI-RN00128 (the "Contract"), pursuant to which Dietec agreed to manufacture and supply the Equipment for the Project, and Osirius agreed to pay Dietec $9,040,966 for the Equipment. Osirius is in possession of each of the Purchase Orders.

11. Osirius's payments were to be made according to the following payment schedule, which the parties included in the Contract (Osirius is in possession of the relevant Purchase Orders):

- 10% of contract amount upon submission of invoice;
- 25% after casting;
- 20% after first sample;
- 10% 60 days after first sample;
- 25% after buy off in Korea; and
- 10% after Renault final approval.

12. During the course of the Project, Osirius was chronically late in meeting its payment obligations. With the exception of the first payment of 10% of the contract price due upon Dietec's submission of its invoice, Osirius failed to meet any of the timing requirements for its payments.

13. Osirius's delinquency became so persistent that Renault was forced to intervene to ensure that Dietec would be able to deliver the Equipment according to Renault's requirements. In pursuit thereof, Renault sent an email to Dietec, assuring Dietec that it was working with Osirius to resolve its "financial issues."

14. Osirius never indicated that it disagreed with Renault's assessment of its financial condition.

15. In order to preserve its relationship with Renault, Dietec continued to manufacture and deliver the Equipment.

16. However, Osirius's continuing inability to make timely payments caused Dietec to experience difficulties obtaining the raw materials far enough in advance to prevent delays in deliveries of the Equipment.

17. Dietec had specifically agreed to and relied on the payment

schedule set forth in the Contract in determining the dates on which it would have Equipment ready to ship to Osirius/Renault.

18. Osirius was aware, at all relevant times, that Dietec was relying on its to obtain the raw materials it needed to continue to manufacture the Equipment.

19. When Osirius's final payment to Dietec, in the amount of $539,404.21, came due, Osirius informed Dietec that it would be make such payment, claiming that Osirius had already paid Dietec the total Contract amount of $9,040,966.

20. Importantly, Osirius did not challenge Dietec's right to the full contract price.

21. Osirius's representation that it had already paid the full contract price was demonstrably false, and Dietec proceeded to demonstrate that Osirius was misrepresenting its payment history; it provided Osirius with records of all wire transfers received from Osirius, which showed a balance due to Dietec of $539,404.21, just as Dietec had asserted.

22. Osirius's refusal to make the final payment, together with its

previous four delinquent payments, caused Dietec to experience a five-month delay in its manufacture of the Equipment.

23. As a result of the delay caused by Osirius and Osirius's representations to Renault, falsely asserting that Dietec was responsible for the delay, Dietec's good will and business reputation were irreparable and substantially damaged.

24. Despite Osirius's ongoing refusal to meet its contractual obligations to pay for the Equipment, Dietec was able to complete its commitments under the Contract and received final approval from Renault on or about October 28, 2016.

25. When Osirius continued unlawfully to withhold payment, even after Dietec had completed its work on the Project, representatives from Dietec set up a meeting with Osirius at Osirius's home office in Troy, Michigan.

26. The meeting took place on or about November 14, 2016, whereat Osirius's CEO, Tim Smith, represented that Osirius would make the final payment to Dietec after it received payment from Renault. Smith's statement proved to be false.

27. On or about November 21, 2016, when Osirius still failed to pay Dietec, Dietec contacted Osirius to receive an update on the status of Renault's payment. Smith responded on or about November 22, 2016 that Osirius had "no news yet" and further indicated that Renault was not cooperating to get Osirius paid.

28. On or about December 20, 2016, Dietec sent a letter to Renault, notifying Renault that it had yet to receive the final payment from Osirius and requesting that Renault wire Osirius its allegedly outstanding payment.

29. On or about December 22, 2016, Renault responded that it had already paid Osirius in full.

30. Upon discovering that Osirius had yet again intentionally misled Dietec, Dietec communicated to Osirius that it was prepared to take legal action against Osirius if payment was not forthcoming immediately.

31. Osirius refused to comply with its contractual obligations.

COUNT I - BREACH OF CONTRACT

32. Dietec incorporates by reference all previous allegations as if fully set forth herein.

33. The three Purchase Orders, Nos. OSI-RN00072, OSI-RN00070, OSI-RN00128, constitute a valid and binding contract, supported by mutual consideration, between Dietec and Osirius.

34. Under the terms of the Contract, Dietec promised to manufacture and deliver the Equipment to Osirius and Osirius promised to pay Dietec the total amount of $9,040,966, pursuant to the payment schedule set forth in the Contract.

35. Defendant's failure to pay to Plaintiff the full amount of the Contract by the date on which Renault issued its final approval constitutes a material breach of the Contract.

36. Osirius's misrepresentations to Dietec and Renault establish that Osirius's breach is, in whole or in part, the result of malice.

37. As a result of Osirius's breach, Dietec has incurred damages in the amount of at least $539,404.21.

COUNT II - TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS AND/OR A BUSINESS EXPECTANCY

38. Dietec incorporates by reference all previous allegations as if fully set forth herein.

39. Dietec had a valid business relationship and expectancy with Renault and Nissan. Renault and Nissan are members of the Renault-Nissan Alliance (the "RNA"), and therefore are strategically and financially aligned in the markets served by Dietec.

40. Renault and Nissan together constitute approximately 80% of Dietec's annual sales.

41. During the years of 2012, 2013, 2014, 2015, and 2016, Dietec has, at all times, been engaged in manufacturing parts for either Renault or Nissan, or both.

42. As a result of Osirius's failure to comply with the terms of the Contract, including its chronic, intentional, and malicious refusal to pay Dietec and its misrepresentations to Renault regarding Dietec's performance of the Contract, Dietec's relationship with Renault and Nissan has been all but destroyed.

43. Dietec recently lost a project with Renault worth approximately $6 million. Dietec has additionally lost opportunities to bid on or to be considered for projects with Renault and Nissan. Dietec expects that it will continue to lose such opportunities for the foreseeable future.

44. Osirius knew of Dietec's relationship with Renault and Nissan.

45. Osirius's misrepresentations were intentional and malicious and have directly resulted in Dietec's loss of a substantial portion of its business, including but not limited to the $6 million contract identified above.

46. As a direct and proximate result of Osirius's tortious interference, Dietec has suffered damages in an amount of at least $6 million.

COUNT III – UNJUST ENRICHMENT

47. Dietec incorporates by reference all previous allegations as if fully set forth herein.

48. Dietec's manufacture and delivery of the Equipment conferred a benefit on Osirius.

49. Osirius knew of the benefit and that its receipt of the benefit was contingent upon its promise to pay Dietec the amount of $9,040,966.

50. Osirius accepted such benefit by its receipt and acceptance of the Equipment and by its partial payment for the Equipment.

51. Under the circumstances, it would be inequitable for Osirius to

retain the benefit unless Osirius pays to Dietec $539,404.21, i.e. the remaining unpaid balance of the original amount due of $9,040,966.

52. Osirius has been unjustly enriched at the expense of Dietec.

53. Dietec is entitled to damages in the amount of at least $539,404.21 because of Osirius's unjust enrichment.

WHEREFORE, as to all Counts alleged herein, Dietec respectfully requests the following relief:

a. All compensatory, actual, incidental, consequential, treble, exemplary, and other damages in excess of $6,539,404.21, including lost profits and lost enterprise value;

b. Equitable, common law, and statutory interest;

c. Attorney's fees and costs; and

e. All other appropriate legal, equitable, declaratory, and injunctive relief.

Dated: February 6, 2017

Respectfully submitted,

MANTESE HONIGMAN P.C.
Attorneys for Plaintiff

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JURY DEMAND

Plaintiff, Dietec Co., Ltd ("Dietec"), by its attorneys, Mantese Honigman P.C., hereby demands a jury trial on all claims so triable.

Dated: February 6, 2017

Respectfully submitted,

MANTESE HONIGMAN P.C.
Attorneys for Plaintiff

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